

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY )  
POWER COMPANY FOR (1) AN ORDER )  
APPROVING THE TERMS AND CONDITIONS OF )  
THE RENEWABLE ENERGY PURCHASE )  
AGREEMENT FOR SOLAR ENERGY )  
RESOURCES BETWEEN KENTUCKY POWER )  
COMPANY AND BRIGHT MOUNTAIN SOLAR, )  
LLC; (2) AUTHORIZATION TO ENTER INTO THE )  
AGREEMENT; (3) RECOVERY OF COSTS )  
THROUGH TARIFF P.P.A.; (4) APPROVAL OF )  
ACCOUNTING PRACTICES TO ESTABLISH A )  
REGULATORY ASSET; AND (5) ALL OTHER )  
REQUIRED APPROVALS AND RELIEF )

CASE NO.  
2024-00243

ORDER

This matter arises upon the motion of the Kentucky Industrial Utility Customers, Inc. (KIUC), filed August 12, 2024, for full intervention. As a basis for its motion, KIUC stated that its members Catlettsburg Refining LLC (Catlettsburg) and Marathon Petroleum LP (Marathon), and its' interest cannot be adequately represented by an existing party.

LEGAL STANDARD

Until recently, the only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to

KRS 367.150(8)(b).<sup>1</sup> The Attorney General was granted full intervention by Commission Order dated August 12, 2024. Intervention by all others is permissive and is within the sole discretion of the Commission.<sup>2</sup>

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

#### DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that KIUC has demonstrated that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that KIUC is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complication the proceedings, for the reasons discussed below.

KIUC stated that Marathon is Kentucky Power Company's (Kentucky Power) largest customer, representing 15 percent of Kentucky Power's energy sold.<sup>3</sup> KIUC

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<sup>1</sup> On April 12, 2024, KRS 164.2807 was passed granting an absolute right to the Energy Planning and Inventory Commission for intervention, if so desired. KRS 164.2807(8) states "Notwithstanding any provision of law to the contrary, the executive committee, or the executive director if authorized by the executive committee, shall have standing to participate as an intervening party in any case or other proceeding before the Public Service Commission."

<sup>2</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

<sup>3</sup> KIUC's Motion for Intervention (filed Aug. 12, 2024) at 2.

alleged that Kentucky Power's request for approval of a Renewable Energy Purchase Agreement and recovery of the associated costs through Tariff P.P.A. will directly impact Marathon's electric rates.<sup>4</sup> KIUC also asserted that it can present issues and develop facts related to electric rates and service that will assist the Commission in rendering a decision without unduly complicating or disrupting the proceedings.<sup>5</sup> KIUC pointed to its long history of being an active participant at the Commission, and in Kentucky Power proceedings.<sup>6</sup> KIUC stated it will be a constructive role in this case.<sup>7</sup>

Based on the above, the Commission finds that KIUC should be granted full rights of a party in this proceeding. The Commission directs KIUC to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>8</sup> regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. KIUC's motion to intervene is granted.
2. KIUC is entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. KIUC shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.

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<sup>4</sup> KIUC's Motion for Intervention at 2.

<sup>5</sup> KIUC's Motion for Intervention at 2.

<sup>6</sup> KIUC's Motion for Intervention at 2-3.

<sup>7</sup> KIUC's Motion for Intervention at 3.

<sup>8</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

4. KIUC shall adhere to the procedural schedule set forth in the Commission's August 21, 2024 Order and as amended by subsequent Orders.

5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, KIUC shall file a written statement with the Commission that:

a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

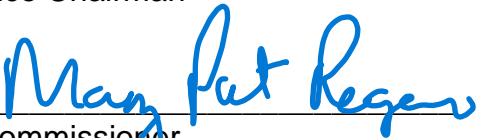
b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

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PUBLIC SERVICE COMMISSION

  
Chairman

Vice Chairman

  
Commissioner

ENTERED  
SEP 03 2024  
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KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

\*Angela M Goad  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Lawrence W Cook  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Hector Garcia  
Kentucky Power Company  
1645 Winchester Avenue  
Ashland, KY 41101

\*J. Michael West  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Jody M Kyler Cohn  
Boehm, Kurtz & Lowry  
36 East Seventh Street  
Suite 1510  
Cincinnati, OHIO 45202

\*Honorable Michael L Kurtz  
Attorney at Law  
Boehm, Kurtz & Lowry  
36 East Seventh Street  
Suite 1510  
Cincinnati, OHIO 45202

\*John G Horne, II  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Tanner Wolfram  
American Electric Power Service Corporation  
1 Riverside Plaza, 29th Floor  
Post Office Box 16631  
Columbus, OHIO 43216

\*Kentucky Power Company  
1645 Winchester Avenue  
Ashland, KY 41101

\*Kenneth J Gish, Jr.  
Stites & Harbison  
250 West Main Street, Suite 2300  
Lexington, KENTUCKY 40507

\*Katie M Glass  
Stites & Harbison  
421 West Main Street  
P. O. Box 634  
Frankfort, KENTUCKY 40602-0634